

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CM CAPITAL SERVICES, LLC,

Plaintiff,

v.

STEWART TITLE OF NEVADA, et al.,

Defendants.

2:10-CV-317 JCM (LRL)

ORDER

Presently before the court is third party defendant Federal Deposit Insurance Corporation's (hereinafter "FDIC-R") motion for summary judgment. (Doc. #47). Pursuant to the status conference (doc. #50) held on January 4, 2011, and the scheduling order (doc. #53), no oppositions were due.

On November 5, 2010, the court entered an order consolidating the case before this court with the cross-claims brought in bankruptcy court by Consolidated Mortgage, LLC, against FDIC-R. (Doc. #30). Subsequently, the parties asked this court to hold a status conference to determine how the case would proceed in light of the consolidation. (Doc. #31). A status conference was scheduled for January 4, 2011. On that date, third party defendant FDIC-R filed the present motion for summary judgment. (Doc. #47).

During the hearing, the court held that "the matter at issue in the first cross-claim in the [a]dversary [p]roceeding (for declaratory relief concerning priority of liens) may well be dispositive of the scope of the remaining claims that were originally asserted in the [a]dversary [p]roceeding and could resolve all or some claims" in the original case before this court. (Doc. #53). Therefore, the court held that it would "not immediately consider the separate pending motion for summary

1 judgment (doc. #47) recently filed by the FDIC-R.” *Id.* Further, it stated that if the [m]otion is not
2 decided by the [c]ourt within six months of its filing, the [c]ourt may [deny] the [m]otion without
3 prejudice.” *Id.*

4 Following this ruling, the plaintiff and cross defendant filed motions and cross-motions for
5 summary judgment relating to the first cross-claims in the adversary proceeding (doc. #54, #60, and
6 #72). A hearing regarding these motions will be held on September 28, 2011. (Doc. #76). As
7 previously stated, the court is not inclined to rule on the present motion (doc. #47) until it has
8 decided the issues surrounding the cross-claims. Therefore, the motion will not be addressed until
9 after the hearing on September 28, 2011. This would exceed the six-month period the court indicated
10 that it would permit the motion to remain pending. (Doc. #53). Thus, the motion (doc. #50) is denied
11 without prejudice and may be renewed after decision on the motions set for hearing on September
12 28, 2011.

13 Accordingly,

14 IT IS HEREBY ORDERED ADJUDGED AND DECREED that third party defendant
15 Federal Deposit Insurance Corporation’s motion for summary judgment (doc. #47) be, and the same
16 hereby is, DENIED without prejudice.

17 DATED August 17, 2011.

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20 **UNITED STATES DISTRICT JUDGE**